

**MAY 18 2006**

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U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

ARMEN KHACHATRYAN,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-75663

Agency No. A95-573-671

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted May 15, 2006<sup>\*\*</sup>

Before: B. FLETCHER, TROTT and CALLAHAN, Circuit Judges.

Armen Khachatryan, a native of the former Soviet Union and citizen of  
Armenia, petitions for review of an order of the Board of Immigration Appeals

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<sup>\*</sup> This disposition is not appropriate for publication and may not be  
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

(“BIA”) summarily affirming an immigration judge’s (“IJ”) order denying his applications for asylum, withholding of removal and protection under the Convention Against Torture (“CAT”). We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for substantial evidence, *see Gormley v. Ashcroft*, 364 F.3d 1172, 1176 (9th Cir. 2004), and we deny the petition for review.

Substantial evidence supports the IJ’s determination that even if Khachatryan suffered persecution on account of his Pentecostal religion, there has been a fundamental change in circumstances such that Khachatryan no longer has a well-founded fear of persecution by Armenian authorities. *See* 8 C.F.R. § 1208.13(b)(1)(i)(A). Khachatryan’s claimed fear is undermined by his testimony that the leader of his Pentecostal congregation in Armenia told Khachatryan that he has not experienced any problems since 1995 and that he “has been fine.” In addition, Khachatryan’s parents continue to attend Pentecostal services in Armenia. Khachatryan also testified that the authorities would not specifically seek him if he were to return to Armenia. This evidence, coupled with corroborating country condition reports, “rebut[s] [Khachatryan’s] specific grounds for his well-founded fear of future persecution.” *Popova v. INS*, 273 F.3d 1251, 1259 (9th Cir. 2001).

As Khachatryan is unable to meet the burden of proof for asylum, he necessarily fails to meet the higher burden of proof for withholding of removal. *See Alvarez-Santos v. INS*, 332 F.3d 1245, 1255 (9th Cir. 2003).

Khachatryan also failed to establish eligibility for CAT relief because he did not show it was more likely than not that he would be tortured if removed to Armenia. *See* 8 C.F.R. § 1208.16(c)(2); *Farah v. Ashcroft*, 348 F.3d 1153, 1157 (9th Cir. 2003).

**PETITION FOR REVIEW DENIED.**